

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

APRIL 9, 1996

**NOTICE**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 95-1954**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

**GRZEGORZ PIOTEREK,**

**Plaintiff-Appellant,**

**v.**

**LABOR AND INDUSTRY  
REVIEW COMMISSION,  
GOOD WILL INDUSTRIES  
and HARTFORD UNDERWRITERS,**

**Defendants-Respondents.**

APPEAL from a judgment of the circuit court for Outagamie County: JAMES T. BAYORGEON, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Grzegorz Pioterek appeals a judgment affirming a decision of the Labor and Industry Review Commission. LIRC awarded Pioterek limited temporary total disability benefits and medical expenses,

denying benefits for permanent partial disability and additional temporary total disability and medical expenses as a result of his claimed injury of September 24, 1991. Pioterek argues that the evidence does not support LIRC's findings and that he was denied a fair hearing. We reject these arguments and affirm the judgment.

The courts may not substitute their judgment for that of LIRC as to the weight or credibility of the evidence on any finding of fact. See § 102.23(6), STATS. LIRC's decision was supported by the report of Dr. James Gmeiner. Even though other medical witnesses disagreed with Dr. Gmeiner's conclusion, LIRC is entitled to accept Dr. Gmeiner's testimony, as it is the sole judge of the witnesses' credibility and the weight of their evidence. See *Manitowoc County v. DILHR*, 88 Wis.2d 430, 437, 276 N.W.2d 755, 758 (1979). Because Dr. Gmeiner's report created legitimate doubt as to Pioterek's injuries, LIRC was entitled to disallow his claims. See *Bumpas v. DILHR*, 95 Wis.2d 334, 342-43, 290 N.W.2d 504, 507-08 (1980); *Beem v. Industrial Comm'n*, 244 Wis. 334, 337, 12 N.W.2d 42, 43 (1943).

Pioterek argues that LIRC "ignored the opinions" of his doctors and counselors. The record shows that LIRC did not ignore their opinions, it merely found other witnesses to be more credible. Pioterek argues that the administrative law judge should have appointed a doctor to resolve the conflict in the medical testimony. The record does not show that Pioterek requested the appointment of an independent doctor. Appointment of a doctor is discretionary. See §§ 102.13(3) and 102.17(1)(g), STATS. In the absence of any request for appointment of another physician, Pioterek has not established any improper exercise of LIRC's discretion.

Pioterek also relies on his personal description of his health and the work environment at Goodwill Industries. This court may not consider those statements because it is limited to the evidence presented to the Worker's Compensation Division. See § 102.23(1)(d), STATS.

Pioterek argues that the record has been "manipulated." This argument is not sufficiently developed to require a response. See *In re Estate of Balkus*, 128 Wis.2d 246, 255 n.5, 381 N.W.2d 593, 598 (Ct. App. 1985).

Finally, Pioterek has not established any impropriety of the conduct of the administrative hearings. This court must assume, in the absence of affirmative proof to the contrary, that the commission acted regularly and pursuant to the rules of law and proper procedures in making its determination. *Davis v. Industrial Comm'n*, 22 Wis.2d 674, 678-79, 126 N.W.2d 611, 613 (1964). After writing a letter to the Worker's Compensation Division complaining that he had to wait months for a scheduled hearing, Pioterek left the hearing of his own will before the proceedings began. He told an interpreter that he would absent himself from the hearing room because his mind was not really clear because of medications and also because he could not find replacement counsel after terminating his previous counsel. The ALJ found lack of sufficient and timely basis for a stay of the hearing and conducted the hearing in Pioterek's absence. The record supports the ALJ's discretionary decision to proceed despite Pioterek's voluntary absence.

*By the Court.*—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.